

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

PEGGY SATKO,

Appellant,

v.

DEPARTMENT OF SOCIAL AND HEALTH
SERVICES,

Respondent.

) Case No. DISM-02-0004

)
) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Vice Chair. The hearing was held at the Pasco Community Services Office in Pasco, Washington, on November 7 and 8, 2002. RENÉ EWING, Member, listened to the recorded proceedings, reviewed the file and exhibits and participated in the decision in this matter.

1.2 **Appearances.** Appellant Peggy Satko was present and was represented by Edward Earl Younglove III, Attorney at Law, of Parr and Younglove, P.L.L.C. Patricia Thompson, Assistant Attorney General, represented Respondent Department of Social and Health Services.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of dismissal for neglect of duty, malfeasance, gross misconduct and willful violation of agency rules or regulations.

Respondent alleges that Appellant falsified documents to allow her daughter to receive food stamps benefits and that Appellant engaged in theft of services in the form of childcare benefits.

1.4 **Citations Discussed.** WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Parramore v. Dep't of Social & Health Services, PAB No. D94-135 (1995); Rainwater v. School for the Deaf, PAB No. D89-004 (1989); Skaalheim v. Dep't of Social & Health Services, PAB No. D93-053 (1994); Holladay v. Dep't of Veterans Affairs, PAB No. D91-084 (1992).

II. FINDINGS OF FACT

2.1 Appellant Peggy Satko was a Financial Services Specialist 4 and permanent employee for Respondent Department of Social and Health Services. Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on January 14, 2002.

2.2 By letter dated January 7, 2002, Stella Vasquez, Regional Administrator for Region 2 Division of Community Services, informed Appellant of her suspension, effective January 8 through January 22, 2002, followed by dismissal, effective January 23, 2002. Ms. Vasquez charged Appellant with neglect of duty, malfeasance, gross misconduct and willful violation of agency rules or regulations. Ms. Vasquez specifically alleged that Appellant falsified documents to allow her daughter to receive food stamp benefits and that Appellant engaged in theft of services in the form of Childcare benefits.

2.3 Appellant began her employment with the Department of Social and Health Services in 1979. Appellant has no history of formal or informal disciplinary action. During her tenure with DSHS, Appellant held a number of positions, including status as a management analyst, quality

1 control specialist and at several levels in the financial services specialist series. Appellant had
2 extensive knowledge of departmental, state and federal policies and procedures related to food,
3 cash, and childcare assistance. As an employee of DSHS and as a public official, Appellant had a
4 duty to conduct herself in professional and ethical manner and to demonstrate the highest standards
5 of personal integrity, fairness, and honesty.

6
7 2.4 As a Financial Services Specialist (FSS) 4 (also referred to as a Financial Leadworker) at
8 the Pasco Community Services Office (CSO), Appellant was in a lead position. Appellant was
9 responsible for conducting fair hearings, performing case audit reviews, and assisting other
10 financial services specialists by providing them with guidance. Appellant also coordinated the
11 “childcare roll out project” which eliminated the need for agency staff to conduct face-to-face
12 interviews with clients requesting childcare assistance. The new program established a toll free
13 number for clients to call and begin the childcare benefits application process.

14
15 2.5 Appellant has a daughter named Sherri S. As a teenager, Sherri sustained brain damage,
16 which permanently affected her decision making ability and her memory. Appellant describes
17 Sherri as a good person, however, she also describes her as emotional, unpredictable and unreliable.
18 Appellant feels that Sherri has made a lot of poor personal choices due to her brain damage,
19 including marriage to an individual that subjected her to domestic violence. Sherri had two children
20 as a result of that marriage. In September 2000, Sherri and her then husband began divorce
21 proceedings. Appellant described the impact of the divorce on her daughter as extremely upsetting
22 and distressing and she felt that her daughter was “going off the deep end.”

23
24 2.6 Sherri, who lived in Oregon, began to routinely leave her two children with Appellant and
25 her husband in Pasco. However, Sherri continued to live in Oregon State. By March 2001, Sherri
26 was unable to provide any care for the children. In an effort to support and provide their daughter

1 with assistance, Appellant and her husband, Charles Satko, took their grandchildren to live with
2 them in their home on a permanent basis. Because Appellant worked fulltime, she arranged for her
3 own mother or family friends to watch the children during the day.

4
5 2.7 Sometime in April 2001, Appellant spoke to her supervisor, Kim Sanchez, about the
6 situation with her daughter. Appellant explained that she was providing care for her two
7 grandchildren and that she needed help with childcare. Ms. Sanchez indicated that as a
8 grandmother, Appellant could apply for childcare and she could check to see if she qualified to
9 receive benefits.

10
11 2.8 Appellant subsequently called the childcare hotline and made a request for benefits, and her
12 application was subsequently granted. As part of the application process, Ms. Sanchez drafted a
13 letter on Appellant's behalf which reflected Appellant's work schedule. Appellant also approached
14 a coworker whose daughter provided childcare and asked for a childcare reference.

15
16 2.9 In May 2001, Sherri visited her parents to discuss "getting her life back on track." Sherri
17 indicated that she wanted to move in and live with her children in her parents' home. During the
18 discussion, Appellant advised her daughter that she could apply for public assistance. Appellant
19 told her daughter that to qualify for benefits, Sherri and her children could live in her home, but
20 would need to set up a household separate from Appellant and her husband. This living
21 arrangement would require Sherri to purchase and prepare separate meals for herself and her
22 children. Sherri and her parents agreed to the plan.

23
24 2.10 On May 8 Sherri applied for Temporary Assistance for Needy Families (TANF) and food
25 stamps at the Kennewick CSO. Sherri was given several forms to complete and return to the
26 department. Sherri and Appellant were required to complete a "statement of shared living

1 arrangement,” which is the form required by the department when an individual requesting
2 assistance lives in another’s household.

3
4 2.11 On May 9, 2001, Sherri and Appellant signed the statement of shared living arrangement
5 indicating that Sherri and her children were living with Sherri’s parents and how they shared the
6 cost for food, rent and utilities. By signing this document, Appellant declared “under penalty of
7 perjury, that these statements represent our current shared living arrangements.” Appellant and her
8 husband also signed separate “statement from landlord/manager” forms indicating that Sherri and
9 her two children were living with them and that Sherri was required to pay \$150 to them for rent.
10 After the forms were signed, Appellant and her husband returned them to Sherri.

11
12 2.12 The events subsequent to May 9 are in dispute. The central issue here is whether Sherri was
13 living in the home with Appellant and her husband while Appellant continued to receive childcare
14 benefits from the state. Respondent alleges that Appellant was required, under WAC 358-290-
15 850(7), to notify the department of a change in family composition within 10 days of her daughter
16 moving into her home and that Appellant was not entitled to receive childcare benefits once Sherri
17 moved back into the home. However, Appellant asserts that her daughter did not follow through
18 with her plan and that she never moved into her home.

19
20 2.13 After listening to all of the testimony, including the testimony of Kim Sanchez, Appellant,
21 Charles Satko, and Sherri, we find that a preponderance of the evidence supports, more likely than
22 not, that Sherri was not living in her parents’ home from May 11 through mid June 2001.
23 Therefore, we make the following findings.

24
25 2.14 Sherri left her parents’ home on May 10, 2001. Although Sherri had an appointment to meet
26 with a financial services specialist on May 11, 2001, she did not show for the appointment.

1 However, the statement of shared living arrangement and the statement from landlord/manager
2 forms were date stamped as received by the Kennewick CSO on May 11, 2001.

3
4 2.15 On May 16, 2001, Sherri met with a financial services specialist. Sherri was approved for
5 both financial and food assistance for herself and her children. The financial and benefits were paid
6 to Sherri through “electronic benefits transfers” (EBT) in which a benefits EBT card is used by the
7 recipient to make purchases. Therefore, no checks were ever mailed to Sherri. Sherri was not
8 approved to receive childcare benefits because she was expected to provide care for her children
9 since she was exempted from the Workfirst program due to her medical problems and due to her
10 son’s medical issues.

11
12 2.16 Appellant assumed that her daughter had missed her May 11, 2001 appointment with DSHS
13 and she and her husband were unaware that their daughter was receiving assistance. Therefore,
14 subsequent to May 10, 2001, Appellant continued to receive childcare benefits for her
15 grandchildren. Following May 11, Sherri would disappear for days at a time and she made only
16 sporadic visits to her children at her parents’ home. During this timeframe, Sherri received one
17 piece of mail from DSHS at her parents’ address, which neither Appellant nor her husband opened.

18
19 2.17 On June 4, 2001, Mr. Satko was hospitalized. Sherri spoke to her parents and again
20 indicated that she would be returning home to live there, to care for her children, and to help care
21 for her ailing father as well. Sherri indicated that she would pick her children up from daycare that
22 day. On June 4, Sherri also met with a financial services provider and signed an “Individual
23 Responsibility Plan” which indicated that she was exempted from Workfirst because she would be
24 providing care for her son and for her disabled father. Sherri, however, did not follow through with
25 her plan to move in with her parents and she failed to pick up her children on June 4.

1 2.18 On June 5, 2001, Appellant and her husband contacted Sherri to discuss her failure to follow
2 through with her plan. Mr. Satko and Sherri engaged in an argument and Sherri threatened to take
3 the children from the home and said that they would never see the children again. Appellant
4 contacted the police and a crisis response center. After the police arrived, Sherri again called her
5 parents and she talked to the officer over the phone and again threatened to take the children from
6 the home. The police contacted the division of Child Protective Services, who made a
7 determination to give protective/temporary custody of the children to Appellant and her husband.

8
9 2.19 Sherri did not arrive on June 5, 2001 to take the children as she threatened, however, she did
10 arrive at her parents' home on June 6. Sherri took her daughter, placed her in the car, and
11 threatened to leave. Appellant again called the police to intervene.

12
13 2.20 On June 8, 2001, Appellant spoke to Kathryn Lowell, a coworker, and described the events
14 of June 5 and 6. That same day, Ms. Sanchez spoke to another coworker, Barb Schwartz, who
15 relayed information to Ms. Sanchez about the call from Appellant. It is unclear how Ms. Schwartz
16 obtained her information. However, during that conversation, Ms. Sanchez understood that Sherri
17 had been living in Appellant's home and that she had threatened to take the kids. Ms. Sanchez also
18 understood that it was Sherri who called the police and a crisis response center on June 5. Ms.
19 Sanchez was puzzled by this information because of her earlier understanding that Sherri was living
20 in Oregon and that it was Appellant who was caring for her grandchildren and needed childcare
21 assistance.

22
23 2.21 Consequently, Ms. Sanchez reviewed the computer history on Appellant's application to the
24 childcare program which confirmed that Appellant was receiving childcare benefits. Ms. Sanchez
25 also confirmed that Appellant's daughter was receiving TANF. Ms. Sanchez became concerned
26 that there was a duplication of assistance and that Appellant was ineligible to receive childcare

1 benefits because she believed that Sherri was in her parents' home with the children. Ms. Sanchez
2 made a written statement that day and provided it to her supervisor.

3
4 2.22 Although we are not questioning the truthfulness of Ms. Sanchez' written statement of
5 June 8 or her testimony before us, the record supports that she received either inaccurate
6 information from Ms. Schwartz, who did not testify before us, or that she may have misinterpreted
7 the circumstances related to Appellant as told to her by Ms. Schwartz. In fact, reports written by
8 officers with the Benton County Police Department indicate that calls made to 911 on June 5 and 6
9 were made by Appellant and/or her husband, not by Sherri.

10
11 2.23 On June 16, 2001, Sherri moved into her parents' home and currently continues to live there.

12
13 2.24 Tom Balzer is the Administrator for the Pasco CSO. After becoming aware of the
14 circumstances surrounding Appellant, he held a fact finding interview with her on June 20, 2001.
15 During the interview, Appellant stated that she was responsible for providing care for her
16 grandchildren because her daughter Sherri was gone for days at a time. In a memo dated June 27,
17 2001 to Stella Vasquez, Region 2 Administrator, Mr. Balzer made a request for a criminal
18 investigation by the Washington State Patrol regarding possible criminal activity by Appellant. Mr.
19 Balzer wrote:

20
21 Mrs. Satko received childcare assistance in the month of May in which she was
22 not entitled to. Mrs. Satko was receiving assistance for the care of her
23 grandchildren. In May 2001, the mother of these children, and the daughter of
24 employee, Sherri [S.], moved into the household with Mrs. Satko and the
25 children. This change in household circumstances rendered Mrs. Satko ineligible
26 to receive the childcare benefits. Mrs. Satko did not report this change to the
department. ...

1 2.25 Stella Vasquez was Appellant's appointing authority when the discipline was imposed.
2 Prior to determining whether misconduct occurred and what the appropriate level of discipline
3 should be, Ms. Vasquez met with Appellant to give her an opportunity to respond to the charges.
4 During the meeting, Appellant indicated that she was not aware that her daughter was receiving
5 financial aid and she stated that her daughter had been coming and going from her home.
6 Appellant denied that her daughter was living in her home. Ms. Vasquez concluded, however, that
7 when Appellant signed the shared living arrangement and the statement landlord forms, she should
8 have assumed that her daughter applied for and was receiving financial assistance from DSHS. Ms.
9 Vasquez felt that as an employee with vast knowledge of the financial eligibility for benefits,
10 Appellant had a higher level of responsibility to act with integrity and that she should have reported
11 changes that affected her eligibility to receive childcare benefits.

12
13 2.26 Ms. Vasquez also considered Appellant's long-term employment history, her experience and
14 training. Ms. Vasquez felt that Appellant had a good work record and had a thorough
15 understanding of the agency's policies, rules and regulations and should have reported the changes.
16 After considering Appellant's response to the charges, Ms. Vasquez concluded that Appellant
17 engaged in theft of services, which constituted a neglect of duty, malfeasance, and gross
18 misconduct. Ms. Vasquez also felt that Appellant willfully violated WAC 388-290-910 when she
19 failed to provide notice to the department within ten days of the change in family composition. Ms.
20 Vasquez did not feel that Appellant presented any mitigating facts for not reporting the change in
21 household composition and she concluded that a 15 day suspension, immediately followed by
22 dismissal, was the appropriate level of discipline.

23 24 **III. ARGUMENTS OF THE PARTIES**

25 3.1 Respondent acknowledges that Appellant's daughter had a lot of problems but asserts that
26 those circumstances did not change Appellant's knowledge, responsibility and obligation to report

1 changes to her household composition. Respondent argues that a preponderance of the evidence,
2 including the statement of shared living arrangements and the landlord statement, support that
3 Sherri was living in Appellant's home and, therefore, rendered Appellant ineligible for childcare
4 assistance.

5 Respondent asserts Sherri used her parents' address to receive mail from DSHS because she
6 lived there and that whether Sherri was in and out of the home makes no difference since she did
7 not notify DSHS of any change in address. Respondent further argues that Appellant was aware
8 that her daughter was receiving mail at her home, that she should have questioned why DSHS
9 would send mail to Sherri, and that she should have assumed that her daughter was obtaining
10 assistance and aid from the state. Therefore, Respondent contends that the Satko home could be
11 considered Sherri's residence even if Sherri was in and out of the home.

12 Respondent argues that Appellant should have notified the state of the circumstances
13 regarding her daughter's whereabouts and let the department determine whether she was still
14 eligible to receive childcare benefits. Respondent argues that Appellant's failure to update the
15 agency with information that her daughter had left her home again deprived the state of making the
16 final determination on eligibility. Respondent argues that Appellant committed theft of services
17 and allowed her daughter to receive benefits when she decided for herself that she was eligible to
18 receive the benefits. Respondent asks the Board to determine that misconduct was proved and that
19 immediate suspension followed by dismissal was warranted.

20
21 3.2 Appellant denies that she engaged in theft of services. Appellant contends that she and her
22 husband were providing their daughter with support by taking care of their grandchildren and by
23 providing Sherri with assistance to get her life back on track. Appellant asserts that she was unable
24 to provide fulltime care for the kids; that they required childcare; and that she was primarily
25 responsible for the children because her husband was ill and unable to participate in their care.

1 Appellant admits that by early May 2001, Sherri stated her intentions to move in with them
2 and set up a separate household with the kids. Appellant acknowledges that she and her husband
3 signed the requisite forms to start the process with DSHS because they felt their daughter was
4 sincere about her plan. Appellant contends, however, that Sherri left on May 10, 2001, and did not
5 live in the home with the exception of a few visits. Appellant argues that her grandchildren
6 continued to live in her home and continued to need daycare. Appellant argues, therefore, that she
7 was not under any obligation to inform the department of a change in living arrangement because
8 her situation did not change until mid June 2001.

9 Appellant denies that she was involved in Sherri's contacts with DSHS. Appellant argues
10 that she is not responsible for her daughter's actions nor is she responsible because her daughter
11 submitted paperwork to DSHS that was not true. Appellant argues that one letter from the
12 department addressed to Sherri at her address did not put her on notice that her daughter turned in
13 the forms and was receiving state aid and food benefits. Appellant states that Sherri did finally
14 move into her home the day before Father's Day, and that she and her husband notified DSHS
15 within 10 days as required.

16 Appellant asserts that she had been a state employee since 1979, had no history of prior
17 discipline or employment problems, that she was a good and valued employee and that she is a law
18 abiding citizen and employee. Appellant argues that the department has failed to prove the charges
19 against her, and that her appeal should be granted.

21 **IV. CONCLUSIONS OF LAW**

22 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
23 herein.

24
25 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting
26 the charges upon which the action was initiated by proving by a preponderance of the credible

1 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the
2 sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of
3 Corrections, PAB No. D82-084 (1983).

4
5 4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her
6 employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't
7 of Social & Health Services, PAB No. D86-119 (1987).

8
9 4.4 Malfeasance is the commission of an unlawful act, the act of doing what one ought not to
10 do, or the performance of an act that ought not to be done, that affects, interrupts, or interferes with
11 the performance of official duty. Parramore v Dep't of Social & Health Services, PAB No. D94-
12 135 (1995).

13
14 4.5 Gross misconduct is flagrant misbehavior which adversely affects the agency's ability to
15 carry out its functions. Rainwater v. School for the Deaf, PAB No. D89-004 (1989).

16
17 4.6 Willful violation of published employing agency or institution or Personnel Resources
18 Board rules or regulations is established by facts showing the existence and publication of the rules
19 or regulations, Appellant's knowledge of the rules or regulations, and failure to comply with the
20 rules or regulations. Skaalheim v. Dep't of Social & Health Services, PAB No. D93-053 (1994).

21
22 4.7 In determining whether a sanction imposed is appropriate, consideration must be given to
23 the facts and circumstances, including the seriousness and circumstances of the offenses. The
24 penalty should not be disturbed unless it is too severe. The sanction imposed should be sufficient to
25 prevent recurrence, to deter others from similar misconduct, and to maintain the integrity of the
26

1 program. An action does not necessarily fail if one cause is not sustained unless the entire action
2 depends on the unproven charge. Holladay v. Dep't of Veterans Affairs, PAB No. D91-084 (1992).

3
4 4.8 Respondent has failed to meet its burden of proving by a preponderance of the credible
5 evidence that Appellant engaged in theft of childcare benefits. Appellant and her daughter made
6 preliminary arrangements for Sherri to move into her parents' home and care for her children.
7 However, Appellant's daughter failed to follow through with that plan and she did not move into
8 her parents' home. As a result, Appellant was under no obligation to report a change in her family
9 composition. Furthermore, Respondent has failed to meet its burden of proof that Appellant's
10 immediate suspension, pursuant to WAC 356-34-050, was required.

11
12 4.9 Appellant recognized that her daughter was behaving erratically, was unpredictable and
13 unreliable during the time period in question here. As such, Appellant should have been alert to the
14 fact that her daughter had, in her possession, legal documents signed by both Appellant and Mr.
15 Satko in which they declared, "under penalty of perjury," to reflect their "current shared living
16 arrangements" as of May 9, 2001. Appellant was a long-term employee with DSHS and she had
17 vast knowledge in the area of financial assistance. In addition to being a DSHS employee, Appellant
18 was the recipient of state benefits in the form of childcare assistance. Therefore, Appellant had
19 both a duty and an ethical obligation to be aware of the implications that could result if her daughter
20 should submit the forms to DSHS, and she had a duty to take any steps necessary to prevent that.

21
22 4.10 However, we are disconcerted with Appellant's failure to take any reasonable measures to
23 determine what her daughter did with the statement of shared living and statement from
24 landlord/manager forms. Appellant's options included approaching Ms. Sanchez, describing the
25 situation with her daughter and giving Ms. Sanchez the opportunity to review agency records in
26 order to determine whether her daughter submitted the forms to the department. Appellant could

1 have also asked her daughter about the forms. Appellant's failure to take these minimal steps
2 constitutes a neglect of her duty to act with the highest level of responsibility and integrity required
3 of a state employee and a public official.

4
5 4.11 Therefore, under the facts and circumstances of this case, we conclude that some
6 disciplinary measure is required. However, we believe that termination is too severe a sanction for
7 a long-term employee with an excellent performance record. Therefore, Appellant's immediate
8 suspension and dismissal should be reversed, and we conclude that a fifteen calendar day
9 suspension, effective beginning January 8, 2002, is sufficient to prevent recurrence, to deter others
10 from similar misconduct, and to maintain the integrity of Respondent's program.

11
12 **V. ORDER**

13 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Peggy Satko is granted in part,
14 and her immediate fifteen calendar day suspension and dismissal are reversed, and Appellant is
15 suspended for a period of fifteen calendar days effective beginning January 8, 2002.

16
17 DATED this _____ day of _____, 2003.

18
19 WASHINGTON STATE PERSONNEL APPEALS BOARD

20
21 _____
Walter T. Hubbard, Chair

22
23 _____
Gerald L. Morgen, Vice Chair

24
25 _____
René Ewing, Member